

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

TEXAS MUTUAL INSURANCE COMPANY AS	§	
SUBROGEE OF RICARDO RAMIREZ	§	
Plaintiff	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	
JAMES F. JURY, TRUCKMOVERS DEPOT,	§	
INC., TRUCKMOVERS.COM, INC.,	§	
NAVISTAR, INC. "NAVISTAR" AND	§	
"TRUCKMOVERS"	§	
Defendants	§	5:16-cv-00348

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

RICARDO RAMIREZ	§	
Plaintiff	§	
	§	
VS.	§	CIVIL ACTION NO.
	§	
TRUCKMOVERS.COM, INC.	§	
and JAMES JURY and NAVISTAR	§	
INTERNATIONAL CORPORATION	§	
and NAVISTAR, INC.	§	
Defendants	§	5:16-cv-00347

DEFENDANTS', JAMES F. JURY, TRUCKMOVERS DEPOT, INC.,
TRUCKMOVERS.COM, INC., NAVISTAR, INC. "NAVISTAR" AND
"TRUCKMOVERS", MOTION TO CONSOLIDATE

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants, JAMES F. JURY, TRUCKMOVERS DEPOT, INC.,
TRUCKMOVERS.COM, INC., NAVISTAR, INC. "NAVISTAR" AND
"TRUCKMOVERS", ask the Court to Consolidate this case with Case No. 5:16-cv-00347;
Ricardo Ramirez vs. Truckmovers.Com, Inc., James Jury, Navistar International Corporation
and Navistar, Inc.; in the United States District Court for the Southern District of Texas; Laredo

Division.

A. INTRODUCTION

1. Plaintiff initially filed in state court as Cause No. 2016CVT002662-D4 styled *Ricardo Ramirez v. Truckmovers, Inc., Inc., James Jury, Navistar International Corporation and Navistar, Inc.* in the 406 District Court of Webb County, Texas. Defendants removed this case, which is now pending before this Court.
2. Plaintiff is RICARDO RAMIREZ; Defendants are TRUCKMOVERS.COM, INC., JAMES JURY, NAVISTAR INTERNATIONAL CORPORATION and NAVISTAR, INC.
3. In Civil Action No. 5:16-cv-00347, Plaintiff, RICARDO RAMIREZ, sued Defendants, TRUCKMOVERS.COM, INC., JAMES JURY, NAVISTAR INTERNATIONAL CORPORATION and NAVISTAR, INC. for money damages arising from a motor vehicle accident that occurred on or about November, 2014 in Webb County, Texas. Plaintiff alleges state law tort causes of action, specifically negligence, negligence per se and respondeat superior.
4. In this case, Plaintiff sued Defendants for negligence, causation, agency and respondeat superior, subrogation and damages arising out of the same motor vehicle accident that occurred on or about November 10, 2014 in Webb County, Texas.
5. The facts in this case are both similar and substantially related to the subject matter in Civil Action 5:16-cv-00347.
6. Defendants, JAMES F. JURY, TRUCKMOVERS DEPOT, INC., TRUCKMOVERS.COM, INC., NAVISTAR, INC. “NAVISTAR” AND “TRUCKMOVERS”, ask the Court to consolidate the suits.

B. ARGUMENT

7. A court may consolidate lawsuits if they involve substantially the same subject matter and if consolidation does not result in delay, jury confusion, or prejudice to the parties. *See* Fed.R.Civ.P. 42(a); *Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495-96 (11th Cir. 1985).
8. The suits proposed to be consolidated are pending before this Court for all purposes. *See* Fed.R.Civ.P.42(a). Both lawsuits concern the same accident regarding the exact same injuries allegedly suffered by Ricardo Ramirez. The only difference in the suit is one is brought by the Plaintiff, Ricardo Ramirez, and the other is brought by Texas Mutual Insurance Company as subrogee of Ricardo Ramirez.
9. The suits involve common issues of fact. Fed.R.Civ.P.42(a); *Cantrell v. GAF Corp.*, 999 F.2d 1007, 1010-11 (6th Cir. 1993); *Hendrix*, 776 F.2d at 1495-96; *see Young v. City of Augusta*, 59 F.3d 1160, 1168-69 (11th Cir. 1995).
10. The Court should consolidate this suit with Civil Action No. 5:16-cv-00347, Plaintiff, *RICARDO RAMIREZ*, v. *TRUCKMOVERS.COM, INC.*, *JAMES JURY*, *NAVISTAR INTERNATIONAL CORPORATION and NAVISTAR, INC.*, for the following reasons:
 - a. Consolidation will not burden the parties or witnesses. *Cantrell*, 999 F.2d at 1011. Both lawsuits concern the same accident regarding the exact same injuries allegedly suffered by Ricardo Ramirez. The only difference in the suit is one is brought by Ricardo Ramirez and the other is brought by Texas Mutual Insurance Company as subrogee of Ricardo Ramirez.
 - b. Consolidation will conserve judicial resources. *Cantrell*, 999 F.2d at 1011; *see Hendrix*, 776 F.2d at 1495. Both lawsuits concern the same accident regarding the exact same

injuries allegedly suffered by Ricardo Ramirez. While Plaintiff is able to bring his own cause of action, there may be an obligation as specified in the subrogation matter which must be addressed in his own case. As the exact same issues are being presented to the Court in both cases, it makes little sense not to try both cases together.

c. Consolidation will resolve the cases in less time than trying them separately. *Cantrell*, 999 F.2d at 1011; *Hendrix*, 776 F.2d at 1495. While Plaintiff is able to bring his own cause of action, there may be an obligation as specified in the subrogation matter which must be addressed in his own case. As the exact same issues are being presented to the court in both cases, it makes little sense not to try both cases together.

d. Consolidation will be less expensive than trying the cases separately. *Cantrell*, 999 F.2d at 1011; see *Hendrix*, 776 F.2d at 1495. While Plaintiff is able to bring his own cause of action, there may be an obligation as specified in the subrogation matter which must be addressed in his own case. As the exact same issues are being presented to the court in both cases, it makes little sense not to try both cases together.

C. CONCLUSION

11. For these reasons, DEFENDANTS ask the Court to consolidate Civil Action 5:16-cv-00348 with Civil Action 5:16-cv-00347 and order the court clerk to merge the suits into one case under Civil Action No. 5:16-cv-00347.

Respectfully submitted,

LOPEZ PETERSON, PLLC

/s/ Christopher C. Peterson

CHRISTOPHER C. PETERSON

Texas State Bar No. 00798430

Federal Bar No. 21184

LOPEZ PETERSON, PLLC

Colonnade Square I

101 West Hillside, Suite 1

Laredo, Texas 78041

(956) 718-2134 – Telephone

(956) 718-2045 – Facsimile

Attorney in Charge for Defendants

Truckmovers. Depot, Inc., Truckmovers.Com,

Inc., Navistar, Inc., “Navistar” and

“Truckmovers”

/s/ Gabriel C. Gonzalez

GABRIEL C. GONZALEZ

Texas State Bar No. 24074291

Federal I.D. #: 1477528

LOPEZ PETERSON, PLLC

Colonnade Square I

101 West Hillside, Suite 1

Laredo, Texas 78041

(956) 718-2134 – Telephone

(956) 718-2045 – Facsimile

Of Counsel for Defendants

Truckmovers. Depot, Inc.,

Truckmovers.Com, Inc.,

Navistar, Inc.,

“Navistar” and “Truckmovers”

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was forwarded via certified mail, return receipt requested, via facsimile and/or hand-delivered to the Plaintiff on the 13th day of December, 2016, to-wit:

Via Facsimile No. (512) 224-3214

Jackie M. Kenyon
Brooke Brightwell
6210 East Highway 290
Austin, Texas 78723

Via Facsimile No. 210-734-9965

Guy J. Gorlick
Donald L. Crook, Jr.
Wayne Wright, L.L.P.
5707 Interstate Ten West
San Antonio, Texas 78201

/s/ Christopher C. Peterson
CHRISTOPHER C. PETERSON